

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

TYRONE RIVERS,

Plaintiff,

v.

**9:09-CV-309
(FJS/RFT)**

**SPINNELLA, Correctional Officer, Marcy
Correctional Facility,**

Defendant.

APPEARANCES

OF COUNSEL

TYRONE RIVERS

07-A-6833

Elmira Correctional Facility
C-12-28
P.O. Box 500
Elmira, New York 14902
Plaintiff *pro se*

**OFFICE OF THE NEW YORK
STATE ATTORNEY GENERAL**

The Capitol
Albany, New York 12224
Attorneys for Defendant

ADELE M. TAYLOR-SCOTT, AAG

SCULLIN, Senior Judge

ORDER

In a Report-Recommendation and Order dated November 4, 2010, Magistrate Judge Treece recommended that the Court grant Defendant's motion for summary judgment and dismiss Plaintiff's complaint in its entirety. *See* Dkt. No. 62. Plaintiff filed objections to the

Report-Recommendation and Order, essentially raising the same arguments that he presented to Magistrate Judge Treece and failing to explain why the Court should excuse his failure to exhaust his administrative remedies. *See* Dkt. No. 64.

When a party files specific objections to a magistrate judge's report-recommendation, the district court makes a "*de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). However, when a party files "[g]eneral or conclusory objections or objections which merely recite the same arguments [that he presented] to the magistrate judge," the court reviews those recommendations for clear error. *O'Diah v. Mawhir*, No. 9:08-CV-322, 2011 WL 933846, *1 (N.D.N.Y. Mar. 16, 2011) (citations and footnote omitted). After the appropriate review, "the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1).

Despite the conclusory nature of Plaintiff's objections, the Court has reviewed the record *de novo* in light of the issues that Plaintiff raised in those objections. Having completed that review, the Court finds his objections to be without merit.

Accordingly, the Court hereby

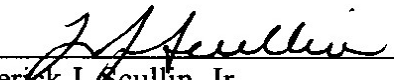
ORDERS that Magistrate Judge Treece's November 4, 2010 Report-Recommendation and Order is **ACCEPTED** in its entirety for the reasons stated therein; and the Court further

ORDERS that Defendant's motion to for summary judgment is **GRANTED** and Plaintiff's complaint is **DISMISSED**; and the Court further

ORDERS that the Clerk of the Court shall enter judgment in favor of Defendant and close this case.

IT IS SO ORDERED.

Dated: March 31, 2011
Syracuse, New York



Frederick J. Scullin, Jr.
Senior United States District Court Judge